FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

Audit Referral:	97-04
Date Activated:	June 9, 1999
SOL Expiration:	Sept. 15, 2001 — Dec. 23, 2001[1]
Staff Member:	Albert R. Veldhuyzen

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Perot '96, Inc.
Mike Poss, as Treasurer
Mike Morris

RELEVANT STATUTES/REGULATIONS:

2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a) and (f)
2 U.S.C. § 431(8)(A)
11 C.F.R. § 100.7(a)(1)
11 C.F.R. § 100.7(b)(8)
11 C.F.R. §§ 116.5(b)
11 C.F.R. § 103.3(b)(3)
11 C.F.R. § 103.3(b)(4)
11 C.F.R. § 104.13
11 C.F.R. § 109.1(c)
11 C.F.R. § 110.1(b)(6)

INTERNAL REPORTS CHECKED: Audit Documents

FEDERAL AGENCIES CHECKED: None

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[1] The statute of limitations date for the earliest violative activity in this matter is September 15, 2001 for Mike Morris' excessive contribution on September 15, 1996. On December 23, 1996, the Committee reimbursed Mr. Morris the excessive portion of his contribution.

I. GENERATION OF MATTER

Perot '96, Inc. ("Committee") was the authorized committee of H. Ross Perot, a candidate for President in 1996. Mr. Perot and the Committee received $29,055,400 in public funds under the *Presidential Election Campaign Fund Act*. 26 U.S.C. §§ 9001-9013. This matter was generated from information obtained in the course of conducting the audit of the Committee in accordance with 26 U.S.C. § 9007(a). The Audit Division's materials are attached. Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

A. LAW

Individuals are prohibited from making contributions to candidates, their authorized committees or agents with respect to any election for federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). Candidates, political committees, and their officers and employees shall not knowingly accept or spend contributions which exceed the statutory limitations. 2 U.S.C. § 441a(f).

A contribution is defined as a gift, subscription, loan, advance, deposit of money, or anything of value made by a person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A); 11 C.F.R. § 100.7(a)(1). The payment by an individual, from his or her personal funds, including a personal credit card, to obtain goods and services for a candidate or a political committee is a contribution unless the payment is exempted from the definition of *contribution under* 11 C.F.R. § 100.7(b)(8). 11 C.F.R. § 116.5(b).

Sections 100.7(b)(8) and 116.5(b) of the Commission's regulations provide that the following are not contributions: (1) unreimbursed payments from a volunteer's personal funds

for "usual and normal" subsistence expenses incidental to volunteer activity, (2) unreimbursed transportation expenses not exceeding $1,000, and (3) transportation and subsistence expenses reimbursed within 60 days after closing date of billing statement if a personal credit card was used, or otherwise, within 30 days after the date incurred. These categories of expenditures are not contributions as long as they are for the subsistence and transportation of the individual incurring the costs. *See* 11 C.F.R. §§ 116.5(b)(2) and 100.7(b)(8). However, if the individual pays "the transportation or subsistence expenses of others or pays other types of campaign expenses," an in-kind contribution results. Explanation and Justification for 11 C.F.R. § 100.7, 55 Fed. Reg. 26,382 (June 27, 1989); *Cf.* 2 U.S.C. § 431(8)(A) (contribution includes anything of value). Consequently, "reimbursements for these nonexempt expenses are treated as refunds of the staff members' contributions." *Id.* at 26,383. Political committees shall refund contributions which, individually or in the aggregate, exceed the statutory limitations within 60 days of receipt by the treasurer. 11 C.F.R. § 103.3(b)(3).

B. ANALYSIS

Between July 19, 1996 and January 16, 1997, Mike Morris, the Committee's staff director, used his personal credit card to pay for the transportation, travel, and other campaign expenses incurred by other Committee staffers including the Vice Presidential candidate. Because Mr. Morris' staff advances were not for his personal expenses, they were in-kind contributions subject to the statutory limitations of 2 U.S.C. § 441a(a)(1)(A). 11 C.F.R. § 116.5(b). On September 5, 1996, Mr. Morris also made a direct contribution to the Committee in the amount of $500. On October 16, 1996, Mr. Morris achieved his highest excessive balance over the $1,000 contribution limit, $26,293. *See* Attachment 1 at 3; Attachment 2.

In response to the Exit Conference Memorandum issued during the audit process, the Committee argued that if there was any violation, it was merely technical and inadvertent and that, in any case, it benefits from the 60-day period found in 11 C.F.R. § 103.3(b)(3) during which it may refund any excessive contribution.[2] Attachment 3 at 2. In support of its proposition that the Commission should take no further action, the Committee cited Matter Under Review ("MUR") 3947.[3] Attachment 3 at 3.

Section 103.3(b)(3) of the Commission's regulations, relied upon by the Committee, states that the treasurer shall, within 60 days of receipt, refund an excessive contribution to the contributor. Once a suspect contribution is received, it must be deposited into an account and may not be used for campaign expenditures. 11 C.F.R. § 103.3(b)(4). These regulatory provisions cannot apply to in-kind contributions which are neither received nor deposited. Furthermore, unlike direct contributions, in-kind contributions are considered expenditures made by the candidate on the date the contributor provides the goods or services. *See* 11 C.F.R. §§ 109.1(c), 110.1(b)(6). Whereas section 103.3(b)(4) prohibits a committee treasurer from disbursing funds from accounts containing suspect contributions, in-kind contributions are

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[2] The Committee stated that,

> There is no justification for treating an 'excessive contribution' resulting from an inadvertent 'staff advance' more strictly than actual excessive contributions, thereby denying a *reasonable* opportunity to cure the unintentional violation. The remedy of a prompt reimbursement should be available for staff advances considered contributions under § *116.5*.

Attachment 3 at 3.

[3] In MUR 3947, two individuals, Barry Diller and Hugh Westbrook, incurred a total of $16,139.17 in excess of the individual contribution limit (2 U.S.C. § 441a(a)(1)(A)) for transportation and fundraising event expenses on behalf of the Kerry for President committee. Prior to the Audit, these individuals had agreed to settle their debts through the debt settlement process. Barry Diller sought reimbursement for a November 20, 1991 fundraising event while Hugh Westbrook's transportation expenses included in the debt settlement plan were incurred between October 8, 1991, and February 19, 1992. The current version of 11 C.F.R. § 116.5 was promulgated on July 29, 1991. Based on the circumstances of the case, the Office of General Counsel recommended, and the Commission found, reason to believe that the Kerry committee violated 2 U.S.C. § 441a(f) and Barry Diller and Hugh Westbrook violated the contribution limits of 2 U.S.C. § 441a(a)(1)(A). The Commission also took no further action in that matter.

automatically considered disbursed and expended. Thus, the regulatory scheme distinguishes in-kind contributions from direct contributions, and does not provide a 60-day grace period for the former.[4] Allowing candidates for political office a 60-day time period to compensate staff members for excessive in-kind contributions would provide their committees a window of opportunity to systematically exploit the Act's contribution limits and prohibitions.[5]

Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that Perot '96, Inc. and Mike Poss, as Treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting an excessive contribution. The Office of General Counsel also recommends that the Commission find reason to believe that Mike Morris violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution of $26,293 to Perot '96, Inc.

However, based on the circumstances of this case, this Office recommends that the Commission take no further action with respect to this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). The Committee's repayments to Mr. Morris occurred within 21 to 36 days, and always before he actually paid the credit card bills on which they were reflected. Moreover, the amount involved is fairly low, $26,293.[6] Finally, if the Commission approves the recommendations to find reason to believe the Respondents violated the Act and to take no

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[4] Excessive contributions, as envisioned by section 103.3, are received, deposited, and refunded within 60 days — not expended by the Committee. By contrast, in-kind contributions are neither received nor deposited and are both contributions and expenditures reportable by the Committee. 11 C.F.R. § 104.13.

[5] MUR 3969 involved 14 individuals making total in-kind contributions of $105,114.82 to the Fulani for President committee. The Fulani committee asserted that it reimbursed individuals who had made expenditures within 60 days, that the individuals concerned did not intend to make contributions, and that the committee could not obtain a corporate credit card. The Commission found reason to believe that a violation occurred, rejecting the argument that a 60 day reimbursement rule should apply to non-personal subsistence expenses.

[6] In its cover memorandum referring this matter to the Office of General Counsel, the Audit Division noted, "[S]ince the amount involved is relatively low, this matter, in the Audit staff's opinion, should not be pursued." In contrast, the Commission reached a conciliation agreement with the committee in MUR 3991, which also involved

further action, this Office recommends that admonishment letters be sent to the Respondents emphasizing the importance of complying with the Act and the Commission's regulations.

III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Mike Morris violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution of $26,293 to Perot '96, Inc. but take no further action and send an admonishment letter.
3. Find reason to believe that Perot '96, Inc. and Mike Poss, as Treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting an excessive contribution but take no further action and send an admonishment letter.
4. Approve the appropriate letters.
5. Close the file.

1/13/00
Date

Lawrence M. Noble
General Counsel

Attachments

1. Referral of the Audit Division dated December 17, 1997.
2. List of credit card expenses incurred by Mike Morris (attached to Audit Report).
3. Perot '96, Inc. Response to Exit Conference Memorandum, October 6, 1997.

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staff advances. However, the amount involved in that matter, over $70,000, was more than twice the amount involved in this audit referral.

PEROT
FOR PRESIDENT '96

Perot '96, Inc.
P.O. Box 96
Dallas, Texas 75221

October 6, 1997

Robert J. Costa
Assistant Staff Director, Audit Division
Federal Election Commission
999 E Street NW
Washington, DC 20463

Dear Mr. Costa,

We object to certain of the Audit Findings and Recommendations contained in the Exit Conference Memorandum of the Audit Division on Perot '96 ("Exit Memorandum"), as summarized below and discussed in the following pages

- **Staff Advances: Perot '96 at all times complied with the purpose and intent of 11 CFR §116.5.**

The stated purpose of 11 CFR § 116.5 is to prevent extended loans to campaigns in financial difficulty under the guise of employee incurred campaign expenses not promptly reimbursed. The Exit Memorandum notes that a Perot '96 staff member in limited instances charged to his credit card incidental campaign expenses associated with candidate appearances, primarily hotel expenses of the candidates and a junior staff member without credit cards. Because Perot '96 was unable to obtain campaign credit cards the staff director had no alternative, due to the impracticality and FEC compliance problems associated with traveling with large amounts of campaign cash, and the requirements for credit cards by hotels and others. The staff director was in each instance promptly reimbursed -- typically in less than half the time permitted and always before he actually paid the expense. The purpose and intent of § 116.5 were complied with in full, and any technical and unavoidable violation is de minimus compared with instances in which the Commission took no action, including instances where reimbursement was never made or was delayed until discovered in the FEC post election audit.

- ***Occupation/Employer Disclosure:* Perot '96 obtained and filed supplemental information in compliance with FEC regulations and instructions.**

Reports Analysis Division staff instructed representatives of Perot '96 while employees of Perot '92 that the staff preferred cumulative rather than regular amendments to supply supplemental contributor information. When informed of the change in preference by the FEC audit staff, Perot '96 promptly filed the information by amendment

- **Legal expenses related to ongoing matters under review *before the Commission are qualified* campaign expenses and winding down costs.**

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Attachment 3
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Anticipated legal expenses relate to outstanding matters under review with respect to which the Commission has not yet acted. Had the FEC acted with respect to complaints involving Perot '96 during the expenditure report period, legal expenses, including associated litigation expenses, would have been qualified campaign expenditures. The campaign conserved funds because the FEC had not yet acted with respect to these matters. To deny the opportunity of representation in matters arising during the campaign simply because the campaign ended before the FEC acted is inappropriate and without legal basis.

A. Perot '96 was at all times in compliance with the purpose and intent of §116.5.

The potential abuses that 11 CFR § 116.5 was adopted to address are not at issue here. In adopting 11 CFR §116.5 the Commission was explicit in its purpose: to prevent the circumvention of contribution limits when a committee experiences financial difficulties and a staff member covers ongoing committee expenses with personal resources without expectation of prompt reimbursement. 35 Fed. Reg. 26,382-26, 383 (1989).

The Exit Memorandum finding involves credit card charges incurred by a campaign staff director during campaign travel.[1] All such expenses were promptly reimbursed within the 60 day limit from the closing date of the employee's billing statement. In fact, audit staff research reflects that reimbursement was almost always made within 30 days after the expense was incurred. In each instance, the staff member was reimbursed before he actually paid the expense. At no time during this period did Perot '96 experience financial difficulties. The use of a credit card by the staff member was simply a practical necessity. To suggest that the situation is equivalent to an attempt to circumvent contribution limitations is completely inaccurate. If any violation occurred it was merely technical and inadvertent, and quickly corrected.

Perot '96 sought campaign credit cards for candidates and staff undertaking campaign travel. These were sought to avoid the risk of inadvertent contributions by candidates and staff, and to maintain strict financial controls. However, credit card providers do not consider political campaigns among those enterprises most credit-worthy. Multiple requests by Perot '96 for credit cards were denied. As the Exit Conference Memorandum notes, three major credit card companies were unwilling to provide business credit cards to Perot '96. A memorandum detailing the efforts of Perot '96 in this regard has been previously supplied to the audit staff.

The expenses at issue deal solely with expenses incurred by the staff director charged with overseeing candidate appearances, for hotel charges of nominees and staff lacking credit cards and incidental candidate appearance expenses where credit cards were required by vendors. The use by the staff director of his personal credit card was the only alternative. If campaign credit cards are unavailable, it is unrealistic to expect presidential and vice-presidential nominees to stand in hotel cashier lines in all instances, or to expect all staff members, especially young or college age individuals working on political campaigns, to meet the credit requirements to be issued personal credit cards.

If the audit staff interpretation of the regulation were correct, violations would be unavoidable for campaigns denied credit cards. Presidential nominees should not be required to stand in registration lines and young staff persons without credit cards denied participation in campaigns due to an

[1] The Exit Memorandum shows that the highest balance was $26,292.31 on October 16, 1996.

interpretation of § 116.5. In addition, means other than use of personal credit cards would involve traveling with large quantities of campaign cash, dramatically increasing the possibility of inappropriate expenditures and posing much more significant reporting, compliance and disclosure issues. And that would not solve the requirement of vendors such as hotels, operators of auditoriums and others who require credit cards to guarantee payment.

Because the campaign was not in financial difficulty, and because reimbursement was prompt, any inference that the staff member intended to delay reimbursement or made an "advance" is completely inaccurate. The Commission appears to be in accord with that conclusion. The 1992 Kerry Democratic presidential primary campaign received staff advances from two campaign representatives. One apparently did not seek reimbursement until the advance was discovered in the post election audit fieldwork by FEC staff, and over $7,500 was never reimbursed. The timing of the advances and economic situation of the campaign suggest that it was pressed for resources. Nevertheless the matter was closed without a finding of probable cause to believe a violation of § 116.5 had occurred. *See* MUR 3947.

In addition, we note that 11 C.F.R. §103.3 provides a political committee 60 days during which it may refund excessive contributions. There is no justification for treating an "excessive contribution" resulting from an inadvertent "staff advance" more strictly than actual excessive contributions, thereby denying a reasonable opportunity to cure the unintentional violation. The remedy of a prompt reimbursement should be available for staff advances considered contributions under §116.5. The staff member in question was always promptly reimbursed, and Perot '96 received no excessive contribution.

B. Perot '96 obtained and filed supplemental information regarding occupation and employer in compliance with the FEC regulations and instructions.

The Exit Memorandum notes that audit staff during fieldwork found that occupation and employer information received through best efforts contacts after December 5, 1996 had not yet been submitted by amendment. The memorandum states "...Committee officials stated that as a result of communication with the Federal Election Commission Reports Analysis Division staff during the 1992 campaign, they were under the impression that they should not file amended reports for the 1996 election cycle as frequently as they had during the 1992 election cycle."

Perot '96 was under this impression for good reason. Representatives of the Reports Analysis Division instructed employees of Perot '96 while they were employed by Perot '92 not to submit regular amendments to provide supplemental occupation and employer information. The FEC informed the campaign it was being "overwhelmed" by the filing of amendments disclosing employer and occupation. (Affidavit of Janice Estes included as Attachment 1.) This was confirmed repeatedly by Perot '92 over the course of many filings and conversations with the FEC over several years, including in its responses to MUR 3721, MUR 3734, MUR 3741, MUR 3748, MUR 3763, and MUR 3779. For example, the following letter was submitted to the FEC in 1993 (a copy of which is included as Attachment 2):

PEROT '92

October 11, 1993

Federal Election Commission
c/o Pat Sheppard
999 E Street, N.W.

Washington, D C 20463

Dear Ms. Sheppard:

Enclosed is the Cumulative Amendment of Perot '92 for the period from March 1, 1992 through December 31, 1992. Information that requires explanation has been footnoted with numeric or alpha explanations and explained on the back pages of this document.

As you will recall, Perot '92 began filing regular amendments to its FEC reports shortly after its organization in March 1992. This practice continued through June 1992, when Perot '92 agreed, at your request, to discontinue regularly submitting amendments to its FEC reports and to instead file one cumulative amendment at a later date.

Your preference for this cumulative amendment procedure has since been reconfirmed numerous times, including a telephone conversation between you and Mr. Chris Wimpee of Ernst & Young in January 1993, a subsequent telephone conversation between you and Ms. Shannon Story of Ernst & Young, and a letter to you from Mr. Daniel C. Routman, Associate General Counsel of Perot '92, dated April 8, 1993. This arrangement has also been referenced in responses filed with the FEC with respect to MUR 3721, MUR 3734, MUR 3741, MUR 3748, MUR 3763, and MUR 3779.

If you have any questions regarding this Cumulative Amendment, please contact Daniel C. Routman at 214-450-8887.

Sincerely,

s/ Mike Poss
Mike Poss
Treasurer

Enclosures

The individuals who received the Commission's request for a cumulative amendment were also responsible for filing reports for Perot '96. In spite of regular and frequent conversations between the FEC Reports Analysis Division and the Perot '96 staff member, no one ever suggested the preference for a cumulative amendment had changed. (Affidavit of Estes.) Consequently, a cumulative amendment was filed on December 5, 1996, again without comment by FEC staff. It was not until the audit staff questioned the practice in the course of the audit in March 1997 that Perot '96 was advised that this preference may have changed. Upon learning of the change in the FEC's preference, Perot '96 promptly filed an amendment reflecting the occupation and employer information it had received since December 5, 1996. (Affidavit of Estes.)

Perot '96 was meticulous in complying with record-keeping and reporting requirements, including with respect to information obtained through the campaign's best efforts regarding contributor occupation and employer. The sole reason for not following the regular amendment approach followed in 1992 was due to the instruction and for the convenience of the FEC.

C. Perot '96 is entitled to incur and pay legal costs related to matters under review before the Commission as qualified campaign expenses and winding down costs.

Legal expenses in the resolution of matters initiated as qualified campaign expenses that continue beyond the reporting period due to action or inaction by the Commission are qualified campaign expenses and proper winding down costs. Outstanding matters under review include only those with respect to which the Commission has not acted. Had the FEC acted with respect to complaints involving Perot '96 during the expenditure report period, legal expenses, including associated litigation expenses, would have been qualified campaign expenditures. The campaign conserved funds because the FEC had not resolved these matters. To deny Perot '96 opportunity to continue to represent itself in matters arising during the campaign simply because the campaign ended before the FEC acted is inappropriate and without legal basis. Perot '96 is entitled to retain and expend amounts necessary for legal services related to matters under review involving it.

The audit report places emphasis on the pending MUR involving Perot '96 and the Commission on Presidential Debates ("CPD"). The FEC has not questioned that legal expenses incurred in relation to the complaint filed by Perot '96 with the FEC against the CPD was a qualified campaign expense incurred during the expenditure report period. Had the FEC acted on the complaints filed with the FEC by or against Perot '96 during the expenditure report period, including the one involving the CPD, legal expenses related to them would without question have been qualified campaign expenditures. It is a strange twist of logic to suggest such categorization is now inappropriate when the sole reason the period during which they would so qualify has passed without their incurrence is a delay in FEC action on those matters.

In fact, Perot '96 sought to avoid the delay the FEC would impose in reaching resolution with respect to the MUR filed against the CPD through court action. In an effort to prevent Perot '96 from pursuing the MUR at that time during the expenditure report period, the FEC stated to the Federal District Court that the campaign's action would not be mooted by FEC review and expiration of the period during which the FEC asserted exclusive jurisdiction over the matters subject to the MUR. To now say expenditures may no longer be made which are necessary to prevent the ongoing matter from being moot in practical effect, expenditures budgeted and conserved for by the campaign in reliance on the FEC position, is wholly inconsistent and without legal basis. The anticipated expenses are directly related to, are an integral part of and cannot be separated from the expenditures during the period when such expenditures are unquestionably qualified campaign expenses.

That position is consistent with prior conclusions by the Commission. In the Dukakis/Bentsen Final Audit Report the Commission determined that printing and postage costs for 125,000 holiday cards sent after the election and as late as the following March were qualified campaign expenses as winding down costs. Such expenses have far less a nexus as winding down costs than do legal expenses related to outstanding MURs and litigation ongoing since the expenditure report period.

In addition, the Final Audit Report of the Dukakis/Bentsen Committee notes that legal services were initiated related to the electoral college during the expenditure report period. Although the electoral college meets after the close of the expenditure report period and legal services were provided after the close of the expenditure report period, the Commission correctly determined that the expenses were qualified campaign expenses because they involved legal services related to activities undertaken during the expenditure report period. The Commission did not and should not attempt to replace the judgment and decisions of the campaign. The question is simply whether properly incurred legal

expenses for a legitimate campaign purpose are at issue. If so, they are properly qualified campaign expenses.

Similarly, in the Addendum to the Final Audit Report-National Unity Campaign for John Anderson, amounts set aside as legal expenses concerning a matter under review were approved by the Commission as winding down costs. The Addendum stated that 11 C.F.R. §9004.4(a)(4) allows public funds to be used for winding down costs which include but are not limited to legal services related to ongoing MURs.

Moreover, Addendum #2 to the Final Audit Report of the National Unity Campaign, dated July 19, 1984, discusses possible attorney fee awards for ballot access litigation. Audit staff sought refund of the attorney fee award, because the funds awarded under the Presidential Election Fund Act were used to pay attorneys for the Supreme Court litigation. Since the majority of the activity in the case, Anderson v. Celebrezze, occurred several years after the close of the 1980 general election expenditure report period, the audit division claim suggests that all such spending constitutes qualified campaign expenses.

The Exit Memorandum also considers legal expenses incurred by Perot '96 in connection with its amicus brief in *Arkansas Education Television Commission v. Ralph P. Forbes*, currently before the Supreme Court. The proposed amicus brief expense and relevancy of the *Forbes* case was presented to and approved by members of the audit staff prior to the payment in question. We were informed only at the exit conference that the position of the Commission had changed following a staff review in Washington. The staff's initial judgment was correct. The Perot '96 expenditure was necessary in relation to the ongoing MUR related to the CPD. The CPD recognized the relationship to the pending MUR and also filed an amicus brief. These expenses are qualified campaign expenses, because they relate directly to issues underlying a MUR involving Perot '96. In making the expenditures, Perot '96 also relied on FEC representation that such incurrence was acceptable.

Perot '96 urges the Commission to recognize that Perot '96 violated neither the purpose nor the intent of §116.5, fully complied with the FEC's instructions regarding filing supplemental information on contributors, and is entitled to reserve for and incur legal fees related to MURs and associated legal claims as qualified campaign expenses and winding down costs, including those associated with the *Forbes* case. We also wish to compliment the Commission audit staff who worked with us, both for their cooperation in obliging our request for an audit as early as possible, and for the professional way in which the audit was handled.

Sincerely,

Russell J. Verney

Attachments

AFFIDAVIT OF JANICE ESTES

State of Texas)
)
County of Dallas)

Before me, a notary public, appeared Janice Estes, who, being duly sworn, deposed as follows:

1. My name is Janice Estes. I am over eighteen (18) years of age. I have never been convicted of any crime of moral turpitude or a felony and am fully competent to make this affidavit.

2. I was employed by Perot '92 and am employed by Perot '96. My responsibilities for both Perot '92 and Perot '96 included preparation of letters to demonstrate good faith efforts to establish identification of contributors of $200 or more, and preparation and filing of amendments to our reports related to that information.

3 In 1992 I began filing amendments containing updated contributor occupation/employer information under instructions from Perot '92 campaign staff, filing them every 10 days.

4. During the 1992 election campaign we were informed by the FEC that it was being "overwhelmed" by our amendments and requested that we file only one master, cumulative amendment.

5 My responsibilities as a Perot '96 staff member included these same functions. During the course of the 1996 election campaign I had numerous telephone conferences with the audit and reporting staff. No one ever questioned our approach or suggested that anything had

changed from the procedures followed at the request of the FEC during the 1992 election. An amendment containing all the contributor occupation/employer information obtained through best efforts was filed on December 5, 1996.

6. We were holding information received after December 5, 1996 for a second cumulative contributor occupation/employer amendment. In March 1997, I learned by discussion with audit staff during the FEC audit of Perot '96 that the FEC's preference for cumulative amendments may have changed. I therefore promptly prepared an amendment containing all the information that we had obtained since December 5, 1996, and that amendment was filed a few days thereafter.

7. I swear under penalty of perjury that the foregoing is true and correct.

Janice Estes

State of Texas)
)
County of Dallas)

Subscribed and sworn to me, a Notary Public, by Janice Estes, known to me to be the person whose name is subscribed to the foregoing instrument.

Given under my hand and seal this 6th day of October, 1997

RENEE MARIE JORDAN
NOTARY PUBLIC
State of Texas
Comm. Exp. 04-18-2000

Notary Public in and for the State of Texas

PEROT '92
1700 Lakeside Square
12377 Merit Drive
Dallas, Texas 75251

Mike Poss
Treasurer

October 11, 1993

By Federal Express

Federal Election Commission
c/o Pat Sheppard
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Sheppard:

Enclosed is the Cumulative Amendment of Perot '92 for the period from March 1, 1992 through December 31, 1992. Information that requires explanation has been footnoted with numeric or alpha explanations and explained on the back pages of this document.

As you will recall, Perot '92 began filing regular amendments to its FEC reports shortly after its organization in March 1992. This practice continued through June 1992, when Perot '92 agreed, at your request, to discontinue regularly submitting amendments to its FEC reports and to instead file one cumulative amendment at a later date.

Your preference for this cumulative amendment procedure has since been reconfirmed numerous times, including a telephone conversation between you and Mr. Chris Wimpee of Ernst & Young in January 1993, a subsequent telephone conversation between you and Ms. Shannon Story or Ernst & Young, and a letter to you from Mr. Daniel G. Routman, Associate General Counsel of Perot '92, dated April 8, 1993. This arrangement has also been referenced in responses filed with the FEC with respect to MUR 3721, MUR 3734, MUR 3741, MUR 3748, MUR 3763, and MUR 3779.

If you have any questions regarding this Cumulative Amendment, please contact Daniel G. Routman at 214-450-8883.

Sincerely,

Mike Poss
Treasurer

Enclosure

Attachment 3
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